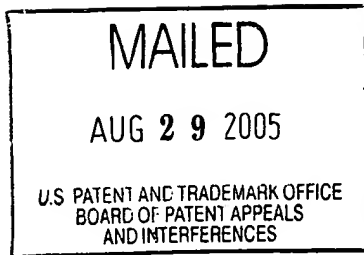


The opinion in support of the decision being entered today  
was **not** written for publication and  
is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** CHUN-SHI CHANG,  
DENNIS D. JURGENSEN, ORVALLE T. KIRBY  
and FELIPE KNOP

---

Appeal No. 2005-1623  
Application No. 09/411,515

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ON BRIEF

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Before THOMAS, RUGGIERO and NAPPI, Administrative **Patent Judges**.

NAPPI, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of  
claims 1 through 52. For the reasons stated *infra*, we will not sustain the  
examiner's rejection of these claims.

### **Invention**

The invention relates to a method for reconfiguring a network. Upon receiving a reconfiguration request at one node, the node enters a quiescent state and remains in the quiescent state for a predetermined period of time. The period of time is sufficient for another node of the network to also enter the quiescent state. Upon the termination of the predetermined period of time the first node is reconfigured to reflect the reconfiguration request without checking with the other nodes. See page 3 of appellants' specification.

Claim 1 is representative of the invention and reproduced below:

1. A method of reconfiguring a network having a plurality of nodes to reflect a change in topology of said network, said method comprising:  
    upon receiving a reconfiguration request at one node of said plurality of nodes, entering a quiescent state at said one node, wherein said one node remains in said quiescent state for a predetermined period of time sufficient to allow at least one other node of said plurality of nodes to also enter a quiescent state; and  
    upon termination of said quiescent state at said one node, reconfiguring said one node to reflect said change in topology of said network without checking with said at least one other node.

### **References**

The references relied upon by the examiner are:

Frank et al. (Frank)	6,532,494	Mar. 11, 2003 (filed May 28, 1999)
Bertin et al. (Bertin)	6,400,681	Jun. 4, 2002 (filed Apr. 1, 1997)
Moiin	6,108,699	Aug. 22, 2000 (filed Jun. 27, 1997)

### **Rejection at Issue**

Claims 1, 2, 7 through 19, 24 through 37 and 42 through 52 stand rejected under 35 U.S.C. § 103(a) as being obvious over Moiin in view of Bertin. Claims 3 through 6, 20 through 23 and 38 through 41 stand rejected under 35 U.S.C. § 103 as being obvious over Moiin in view of Bertin and Frank. Throughout the opinion we make reference to the briefs and the answer for the respective details thereof.

### **Opinion**

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs, along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellants and the examiner, and for the reasons stated *infra*, we will not sustain the examiner's rejection of claims 1 through 52 under 35 U.S.C. § 103.

Appellants state, on page 7 of the brief, that the independent claims recite "upon receiving a configuration request at one node of the plurality of nodes, entering a quiescent state at the one node, wherein said one node remains in a quiescent state for a predetermined period of time sufficient to allow at least one

other node of the plurality of nodes to also enter a quiescent state.” Appellants argue, on page 7 of the brief, that this feature is not taught by Moiin, and that the predetermined period discussed in column 2 of Moiin, which the office action refers, is to determine the failure of a node. Appellants argue, on pages 2 and 3 of the reply brief, that the claimed quiescent state and Moiin’s failed state are not the same. Appellants argue, on page 3 of the reply brief:

[T]he quiescent state is a state wherein nodes do not process messages with sequence identifiers different from the sequence identifier currently stored in local memory . . . A purpose of the quiescent state is to allow current protocols to complete processing at the node while preventing new protocols from being started.

Thus, appellants assert, “given that processing continues at a reduced level in the quiescent state, the quiescent state is other than a failed state.” Further, on page 3 of the reply brief, the appellants argue:

[T]he Examiner’s Answer concludes that a failed state in Moiin lasts for a “certain time”. This is clearly distinct from Appellants’ independent claims, which recite that the quiescent state exists at the node for a predetermined period of time after receipt of a reconfiguration request. In a failed state, the length of the failure is unknown since the length of the failed state depends upon the reason for the failure. Thus, there is no “predetermined” length of time that a node in Moiin is in a failed state.

The examiner states, on page 11 of the answer:

One [of] ordinary skill in the art at the time of [the] invention can interpret the failure of the node as being in [a] quiescent state. Whenever the node failed it forms a new cluster excluding that node for [a] certain time and receive a reconfiguration message. Appellant’s [sic, Appellants’] invention recite [sic, recites] “entering a quiescent state at the one node”, one [of] ordinary skill in the art at the time of the invention can easily interpret the “entering a quiescent state at the one node” as the node going in an inactive or failed state either it receives a request for reconsideration or

because of the topology changed it goes into inactive or failed state in both cases the node goes inactive for a certain time.

Further, the examiner states, on page 12 of the answer:

According to Moin by waiting to receive reconfiguration messages from all nodes, CMM 220A (FIG. 3) determines which, if any, of nodes 1-5 are operative and in communication with node 0. When CMM 220A has received reconfiguration message from all nodes 1-5 or when the predetermined [period] of time has expired, whichever occurs first, processing transfers to step 408 (FIG. 4) (col. 6, lines 7-13). One [of] ordinary skill in the art at the time of the invention can interpret the applicant's grace period as predetermined amount of time.

While we agree with the examiner that the failure of a node can be considered a quiescent mode, we do not find that the combination of Moin and Bertin teach that the node is in the quiescent mode for a predetermined period of time as claimed. Claim 1 includes the limitations "wherein said one node remains in said quiescent state for a predetermined period of time" and "upon termination of said quiescent state at said one node, reconfiguring said one node to reflect said change in topology of said network without checking with said at least one other node." Independent claims 18, 35 and 36 contain similar limitations. We find no limitations in these claims that support appellants' assertion that a node in the quiescent state "continues at a reduced level."

However, as appellants argue, we find no disclosure in Moin that the node stays in the failed state for a predetermined period of time as claimed. On page 5 of the office action the examiner asserts that Moin teaches this feature in column 2, lines 23-34. We find no discussion of a node being in a quiescent state for a predetermined period of time and upon the end of the quiescent state

reconfiguring the node to reflect the change in topography in the cited sections of Moiin. Rather, we find that in column 2, lines 39-55, Moiin teaches that failure to receive a message from a node for a predetermined period of time causes the other nodes to initiate a reconfiguration request. Thus, if the failure of a node is equated to the quiescent state, there is no disclosure of the failed node being reconfigured to reflect the reconfiguration request a predetermined period of time after it failed. Further, on page 12 of the answer, the examiner asserts that the predetermined period of time is taught in column 6, lines 7-13 and figure 4, step 408. We do not find that this discussion teaches the claimed node being in a quiescent state for a predetermined period of time as claimed. We find that Moiin teaches that CMM sends out a reconfiguration request and waits for a reply from the other nodes for a period of time. After the time has expired CMM reconfigures the network to include the nodes that are operational, those that responded to the request. We do not find that Moiin teaches that CMM is in a quiescent state during the predetermined period of time. Nor do we find that Moiin teaches or suggests that CMM is reconfigured "to reflect said change in topology of said network without checking with said at least one other node" as is claimed.

The examiner does not assert, nor do we find that Bertin teaches or suggests a node being in a quiescent state for a predetermined period of time, and upon the end of the quiescent state reconfiguring the node to reflect the change in topography. The examiner asserts at page 11 of the answer that

Bertin teaches a system where “the network topology information is updated when new links are activated, new nodes added to the network, when link or nodes are dropped or when link loads change significantly” and thereby teaches the claim limitation “reconfiguring said one node to reflect said change in topology of said network without checking with said at least one other node.” While we concur that this does appear to teach the limitation, we find no motivation to include this feature of Bertin with Moin’s teachings of the node waiting a predetermined period of time. As discussed *supra*, the predetermined time periods discussed in Moin are to determine if a node is operational, and we find no suggestion to combine the references in the manner asserted by the examiner. Further, we find that such a combination would be counterintuitive as the purpose of the predetermined period of time is to allow for a response from the operational nodes so that the network can be configured with operational nodes. Modifying Moin to reconfigure the network without checking with the other nodes would defeat the purpose of waiting the predetermined period of time. Thus, we find that the combination Moin and Bertin do not make obvious the invention claimed in independent claims 1, 18, 35 and 36. Accordingly, we will not sustain the examiner’s rejection of claims 1, 2, 7 through 19, 24 through 37 and 42 through 52 under 35 U.S.C. § 103 as being obvious over Moin in view of Bertin.

We next consider the rejection of claims 3 through 6, 20 through 23 and 38 through 41 under 35 U.S.C. § 103 as being obvious over Moin in view of

Bertin and Frank. These claims are dependent upon independent claims 1, 18 and 36. As discussed *supra*, we find that the combination of Moiin and Bertin does not make obvious the invention claimed in independent claims 1, 18, and 36. The examiner has not asserted, nor do we find that Frank makes up for the deficiencies noted *supra*. Accordingly, we will not sustain the examiner's rejection of claims 3 through 6, 20 through 23 and 38 through 41 under 35 U.S.C. § 103 as being obvious over Moiin in view of Bertin and Frank.

In summary we will not sustain the examiner's rejections under 35 U.S.C. § 103. Accordingly, we reverse the examiner's rejection of claims 1 through 52.

**REVERSED**

JAMES D. THOMAS  
Administrative Patent Judge

*Joe F. Ruggiero*  
JOSEPH F. RUGGIERO  
Administrative Patent Judge

~~ROBERT E. NAPPI~~  
~~Administrative Patent Judge~~

# BOARD OF PATENT APPEALS AND INTERFERENCES

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Appeal No. 2005-1623  
Application No. 09/411,515

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